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February 22, 2005

Date

*Janna M. Melasecca*  
Janna M. Melasecca

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:

**Rodney L. Pettis**

)  
) Attorney Docket No. 025635.011.042  
)

Serial No.: 10/760,337

)  
) Examiner: Sow Fun Hon  
)

Filed: January 20, 2004

)  
) Group Art Unit: 1772  
)

For: **Elastomer and Polyolefin Resin Based  
Films and Associated Methods**

**TRANSMITTAL LETTER**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Transmitted herewith for filing are the following documents:

- Petition to Make Special;
- Thirty (30) Patent References;
- Petition Fee Transmittal;
- Check in the amount of \$130.00; and
- Postcard, which we would appreciate your date-stamping and returning to us upon receipt.

I hereby authorize the Assistant Commissioner to charge any additional fees, which may be required, or credit any overpayment to Bracewell & Patterson, L.L.P.'s Deposit Account No. 50-0259 (Atty Docket 025635.011.042)

Respectfully submitted,

Date: February 22, 2005

*Jeffrey S. Whittle*  
Jeffrey S. Whittle, Reg. No. 36,382

BRACEWELL & PATTERSON, L.L.P.  
P.O. Box 61389  
Houston, Texas 77208-1389  
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**PETITION FEE**  
**Under 37 CFR 1.17(f), (g) & (h)**  
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(Fees are subject to annual revision)

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|                        |                  |
|------------------------|------------------|
| Application Number     | 10/760,337       |
| Filing Date            | January 20, 2004 |
| First Named Inventor   | Pettis           |
| Art Unit               | 1772             |
| Examiner Name          | Sow Fun Hon      |
| Attorney Docket Number | 025635.011.042   |

Enclosed is a petition filed under 37 CFR 1.17(h) that requires a processing fee (37 CFR 1.17(f), (g), or (h)). Payment of \$ 130.00 is enclosed.

This form should be included with the above-mentioned petition and faxed or mailed to the Office using the appropriate Mail Stop (e.g., Mail Stop Petition), if applicable. For transmittal of processing fees under 37 CFR 1.17(i), see form PTO/SB/17i.

**Payment of Fees** (small entity amounts are NOT available for the petition fees)

☒ The Commissioner is hereby authorized to charge the following fees to Deposit Account No. 50-0259:  
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Enclose a duplicative copy of this form for fee processing.

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**Petition Fees under 37 CFR 1.17(f): Fee \$400 Fee Code 1462**

For petitions filed under:

- § 1.53(e) - to accord a filing date.
- § 1.57(a) - to accord a filing date.
- § 1.182 - for decision on a question not specifically provided for.
- § 1.183 - to suspend the rules.
- § 1.378(e) - for reconsideration of decision on petition refusing to accept delayed payment of maintenance fee in an expired patent.
- § 1.741(b) - to accord a filing date to an application under § 1.740 for extension of a patent term.

**Petition Fees under 37 CFR 1.17(g): Fee \$200 Fee Code 1463**

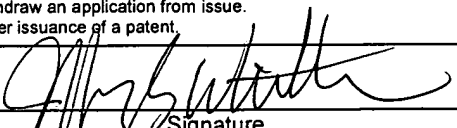
For petitions filed under:

- § 1.12 - for access to an assignment record.
- § 1.14 - for access to an application.
- § 1.47 - for filing by other than all the inventors or a person not the inventor.
- § 1.59 - for expungement of information.
- § 1.103(a) - to suspend action in an application.
- § 1.136(b) - for review of a request for extension of time when the provisions of section 1.136(a) are not available.
- § 1.295 - for review of refusal to publish a statutory invention registration.
- § 1.296 - to withdraw a request for publication of a statutory invention registration filed on or after the date the notice of intent to publish issued.
- § 1.377 - for review of decision refusing to accept and record payment of a maintenance fee filed prior to expiration of a patent.
- § 1.550(c) - for patent owner requests for extension of time in *ex parte* reexamination proceedings.
- § 1.956 - for patent owner requests for extension of time in *inter partes* reexamination proceedings.
- § 5.12 - for expedited handling of a foreign filing license.
- § 5.15 - for changing the scope of a license.
- § 5.25 - for retroactive license.

**Petition Fees under 37 CFR 1.17(h): Fee \$130 Fee Code 1464**

For petitions filed under:

- § 1.19(g) - to request documents in a form other than that provided in this part.
- § 1.84 - for accepting color drawings or photographs.
- § 1.91 - for entry of a model or exhibit.
- § 1.102(d) - to make an application special.
- § 1.138(c) - to expressly abandon an application to avoid publication.
- § 1.313 - to withdraw an application from issue.
- § 1.314 - to defer issuance of a patent.

  
\_\_\_\_\_  
Signature  
Jeffrey S. Whittle  
\_\_\_\_\_  
Typed or printed name

February 22, 2005

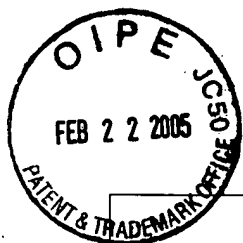
\_\_\_\_\_  
Date

36,382

\_\_\_\_\_  
Registration No., if applicable

This collection of information is required by 37 CFR 1.17. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 5 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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For: **Elastomer and Polyolefin Resin Based  
Films and Associated Methods**

02/25/2005 LWONDIM1 00000023 10760337

01 FC:1464

130.00 DP

**PETITION TO MAKE SPECIAL**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

I, Jeffrey S. Whittle, Reg. No. 36,382, am attorney of record for the above-identified application. On behalf of Applicant, I hereby petition the Commissioner pursuant to 37 CFR § 1.102 and MPEP § 708.02 to make this application special and request that examination of the application take place in an accelerated manner.

To Applicant's knowledge, this application has not yet received any significant examination by the Examiner. Prior to submitting this Petition, and at the request of the Examiner, Applicant has elected without traverse to restrict examination to claims 1-27 of the application. Applicant has made or caused to be made a search of the prior art with respect to the particular feature or features claimed in the application, and the references listed herein have been located. The search was conducted in a database which included U.S. patent and patent applications available as of 11/04/03 in classes/subclasses 428/34.6, 34.7, 34.9, 35.1, 36.8, 36.91, 36.92, 515, 516, 517, 519 and 521.

Applicant has enclosed one copy of each of the patent documents deemed most closely related to the subject matter encompassed by the claims, and has included herein a detailed

discussion of these patent documents, which discussion points out how the claimed subject matter is patentable over the documents.

| Patent Number | Inventor        | Brief Description   |
|---------------|-----------------|---|
| RE37,699      | Bradfute et al. | <p>Bradfute describes film and sheet materials, and articles made therefrom, such as bags, pouches, trays, etc., comprising one or more layers of a thermoplastic, homogeneous alpha-olefin vinyl aromatic copolymer, preferably an ethylene/styrene copolymer. The homogeneous alpha-olefin/vinyl aromatic copolymer may be present in a monolayer film, either alone or in a blend, or may be included in one or more layers of a multilayer film.</p> <p>In contrast the present invention claims a packaging film comprising a first outermost layer of elastomer, a second inner layer of polyolefin overlying and abuttingly contacting the first outermost layer of elastomer, and a third outermost layer of elastomer overlying and abuttingly contacting the second inner layer of the polyolefin.</p> <p>Thus, Bradfute does not describe one or more elements of the presently claimed invention, i.e., a multilayered film in which the two outermost layers are elastomers, and each elastomer layer abuttingly contacts the inner core polyolefin layer.</p> |
| 4,897,174     | Wang et al.     | <p>Wang describes an apparatus for measuring the concentration of oxygen in exhaust gases. In contrast, the present application claims a packaging film which includes a first outer layer of elastomer; a second inner layer of polyolefin; and a third outer layer of elastomer. Thus, Wang does not describe one or more elements, i.e., a multilayered packaging film, of the presently claimed invention.</p>  |
| 5,106,677     | Yeh et al.      | <p>Yeh describes a packaging film comprising a styrene-butadiene polymer. In contrast, the present application claims a packaging film which includes a first outer layer of elastomer; a second inner layer of polyolefin; and a third outer layer of elastomer. Wang does not describe one or more elements of the presently invention, i.e., a packaging film having the claimed multilayered composition.</p>   |
| 5,158,836     | Schirmer et al. | <p>Schirmer describes a packaging film in which styrene butadiene copolymer forms two outer layers of the preferred embodiment, with a core layer of very low density polyethylene or blends thereof. There are intermediate polymeric adhesive layers such as ethylene vinyl acetate copolymer (EVA) bonding the core layer to each of the outer layers. (col 5, lines 1-7).</p> <p>In contrast, the present application claims a packaging film comprising a first outermost layer of elastomer, a second inner layer of polyolefin overlying and abuttingly contacting the first outermost layer of elastomer, and a third outermost layer of elastomer overlying and abuttingly contacting the second inner layer of the polyolefin. The present invention does not utilize intermediate layers between the outer and inner layers.</p> <p>Thus, Schirmer does not describe one or more elements, i.e., abutting contact between the outer elastomer layers and the inner polyolefin layer of the film, of the presently claimed invention.</p>                         |
| 5,219,666     | Schirmer et al. | <p>In Schirmer, a multilayer film is disclosed. Styrene butadiene copolymer (SBC) forms two outer layers of the preferred embodiment, with a core layer of very low density polyethylene (VLDPE) or blends thereof, and intermediate polymeric adhesive layers such as ethylene vinyl acetate copolymer (EVA) bonding the core layer to the outer layers.</p> <p>In contrast the present invention claims a packaging film comprising a first outermost layer of elastomer, a second inner layer of polyolefin overlying and abuttingly contacting the first outermost layer of elastomer, and a third outermost layer of elastomer overlying and abuttingly contacting the second inner layer of the polyolefin.</p> <p>Thus, Schirmer does not describe one or more elements of the presently claimed invention, i.e., a multilayered film in which the two outermost elastomer layers each abuttingly contact the inner polyolefin core layer.</p>   |

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|-----------|-----------------|--|
| 5,319,033 | Trepka et al.   | <p>Trepka describes a method for preparing tapered block copolymers particularly suitable for use in shrink films, containers, tubes, fibers and other packaging applications.</p> <p>Trepka does not, however, describe a packaging film comprising a first outermost layer of elastomer, a second inner layer of polyolefin overlying and abuttingly contacting the first outermost layer of elastomer, and a third outermost layer of elastomer overlying and abuttingly contacting the second inner layer of the polyolefin.</p> <p>Thus, Trepka does not describe one or more elements, i.e., a packaging film having the claimed composition in its three respective layers, of the presently claimed invention.</p>   |
| 5,456,979 | Schirmer        | <p>Schirmer describes a hot blown and double bubble process for making a polymeric, thin oriented film comprising very low density polyethylene (polyolefin) that may be used as a monolayer, or as one layer of a multilayer structure in packaging materials.</p> <p>Schirmer does not describe a packaging film comprising a first outermost layer of elastomer, a second inner layer of polyolefin overlying and abuttingly contacting the first outermost layer of elastomer, and a third outermost layer of elastomer overlying and abuttingly contacting the second inner layer of the polyolefin.</p> <p>Thus, Schirmer does not describe one or more elements, i.e., first and third outermost layers comprising an elastomer material, of the presently claimed invention.</p>   |
| 5,523,136 | Fischer et al.  | <p>Fischer describes a packaging film having a first layer of an elastomer and a second layer of a polyethylene. The film can have a third layer of a polyethylene such that the second layer is disposed between the first and third layers.</p> <p>Fischer does not describe a packaging film comprising a first outermost layer of elastomer, a second inner layer of polyolefin overlying and abuttingly contacting the first outermost layer of elastomer, and a third outermost layer of elastomer overlying and abuttingly contacting the second inner layer of the polyolefin.</p> <p>Thus, Fischer does not describe one or more elements, i.e., abutting contact between the inner polyolefin layer and each of the outermost elastomer layers, of the presently claimed invention.</p>  |
| 5,658,625 | Bradfute et al. | <p>Bradfute describes film and sheet materials, and articles made therefrom, such as bags, pouches, trays, etc... comprising one or more layers of a thermoplastic, homogeneous alpha-olefin vinyl aromatic copolymer, preferably an ethylene/styrene copolymer. The homogeneous alpha-olefin/vinyl aromatic copolymer may be present in a monolayer film, either alone or in a blend, or may be included in one or more layers of a multilayer film.</p> <p>In contrast the present invention claims a packaging film comprising a first outermost layer of elastomer, a second inner layer of polyolefin overlying and abuttingly contacting the first outermost layer of elastomer, and a third outermost layer of elastomer overlying and abuttingly contacting the second inner layer of the polyolefin.</p> <p>Thus, Bradfute does not describe one or more elements of the presently claimed invention, i.e., a multilayered film in which the two outermost layers are elastomers, and each elastomer layer abuttingly contacts the inner core polyolefin layer.</p> |
| 5,663,002 | Schirmer        | <p>In Schirmer, a multilayer film is disclosed having a first outer styrene butadiene copolymer layer having a butadiene content of 50 weight percent or more; and a second outer styrene butadiene copolymer layer having a butadiene content of 50 weight percent or less, a core layer comprising ethylene/alpha olefin copolymer, and intermediate adhesive layers to assist in bonding the outer layers to the core layer.</p> <p>In contrast the present invention claims a packaging film comprising a first outermost layer of elastomer, a second inner layer of polyolefin overlying and abuttingly contacting the first outermost layer of elastomer, and a third outermost layer of elastomer overlying and abuttingly contacting the second inner layer of the polyolefin.</p> <p>Thus, Schirmer does not describe one or more elements of the presently claimed invention, i.e., a multilayered film in which the two outermost layers each abuttingly contact the inner core layer.</p>   |

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| 5,756,577 | Gutierrez-<br>/Villarreal | <p>Gutierrez-/Villarreal describes the production and application of heat shrinkable films derived from a blend of styrene-butadiene copolymer and polyolefin type resins for use in general applications for packaging material.</p> <p>Gutierrez-/Villarreal does not describe a packaging film comprising a first outermost layer of elastomer, a second inner layer of polyolefin overlying and abuttingly contacting the first outermost layer of elastomer, and a third outermost layer of elastomer overlying and abuttingly contacting the second inner layer of the polyolefin.</p> <p>Thus, Gutierrez-/Villarreal does not describe one or more elements of the presently claimed invention, i.e., a multilayered film having the claimed layer structure.</p>   |
| 5,783,270 | Fischer et al.            | <p>Fischer describes a film which has a first layer of an elastomer and a second layer of a polyethylene. The film can have a third layer of a polyethylene such that the second layer is disposed between the first and third layers. The polyethylene of the third layer also can be single site catalyst polyethylene and the elastomer of the first layer can be styrene butadiene copolymer.</p> <p>Fischer does not describe a packaging film comprising a first outermost layer of elastomer, a second inner layer of polyolefin overlying and abuttingly contacting the first outermost layer of elastomer, and a third outermost layer of elastomer overlying and abuttingly contacting the second inner layer of the polyolefin.</p> <p>Thus, Fischer does not describe one or more elements, i.e., a third outermost layer of elastomer overlying and abuttingly contacting a second inner layer of polyolefin, of the presently claimed invention.</p> |
| 5,834,077 | Babrowicz                 | <p>Babrowicz describes a multilayer film having outer layers comprising an ethylene/alpha-olefin copolymer and an inner layer which is an oxygen barrier layer.</p> <p>Babrowicz does not describe a packaging film comprising a first outermost layer of elastomer, a second inner layer of polyolefin overlying and abuttingly contacting the first outermost layer of elastomer, and a third outermost layer of elastomer overlying and abuttingly contacting the second inner layer of the polyolefin.</p> <p>Thus, Babrowicz does not describe one or more elements, i.e., a film having outermost elastomer layers, of the presently claimed invention.</p>  |
| 5,837,355 | Hayai                     | <p>Hayai describes a process for producing a multilayer printed circuit board.</p> <p>Hayai does not describe a packaging film comprising a first outermost layer of elastomer, a second inner layer of polyolefin overlying and abuttingly contacting the first outermost layer of elastomer, and a third outermost layer of elastomer overlying and abuttingly contacting the second inner layer of the polyolefin.</p> <p>Thus, Hayai does not describe one or more elements, i.e., a multilayered packaging film, of the presently claimed invention.</p>  |
| 5,972,519 | Niessner et al.           | <p>Niessner describes a film in roll form, in particular for use as food packaging as substitute for a film made from polyvinyl chloride, comprising from 15 to 99.6% by weight of an elastomeric styrene-butadiene block copolymer, from 15 to 99.6% of a thermoplastic polymer, from 0.1 to 10% of an antifogging agent, from 0.1 to 5% of a primary antioxidant, from 0.1 to 5% of a secondary antioxidant and from 0.1 to 50% of other auxiliaries.</p> <p>In Niessner, column 16, lines 14-21, the preferred embodiment is described as having an A/B/A structure, with outer polypropylene layers and an intermediate thermoplastic elastomer layer. A list of other theoretical embodiments is provided, each including various multilayered structures, including one which includes a B/A/B structure. (see column 15, lines 42-67).</p>  |

|  |  |  |
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|  |  | <p>The present invention is distinguishable from Niessner. For example, an embodiment as set forth in claim 1 of the present invention includes a shrink wrap packaging film contacting and substantially surrounding a product and shrunk thereon, the packaging film comprising a first outermost layer of elastomer, a second inner layer of polyolefin, and a third outermost layer of elastomer. The film includes enhanced optical and mechanical properties for a selected overall packaging film gauge thickness to allow the product to be seen more clearly through the packaging film and to increase modulus for the packaging film.</p> <p>Niessner does not show or describe a film which contacts and substantially surrounds a product and is shrunk thereon. It discusses packaging films which are used on certain products (see column 16, lines 62-64), including shrinkwrap film, but it does not address whether or not the film contacts or surrounds the product. Niessner is primarily concerned with a film structure suitable for stretch film applications, particularly to replace PVC stretch/cling films (see, e.g., column 17, lines 52-53), for use in, for example, manually wrapping trayed meat packages. (see column 18, lines 23-25). Niessner desires a film structure that has high elastic recovery to stretching (i.e., the film is stretched mechanically and it springs back under ambient conditions). Therefore, the film in Niessner preferably has a low degree of orientation (see column 16, line 22-25).</p> <p>In contrast, an embodiment of the present invention describes a film preferably used in heat shrink processes (see published application, paragraph [0053], lines 10-14; see also published application, paragraph [0067], lines 1-14). In this regard, the film preferably has a high degree of orientation so that when heat is applied, the film thermally recovers and shrinks to wrap the package (see published application, paragraph [0056], lines 15-24). Thus, Niessner clearly does not anticipate the present invention.</p> <p>Further, Niessner also does not show or describe a film which includes enhanced mechanical properties relating to increased modulus, thus allowing the packing to be machinable at relatively high speeds.</p> <p>Further, as mentioned previously, Niessner only makes a single reference to the potential for a B/A/B structure as one of numerous potential layer structures. Niessner does not discuss the specific benefits of utilizing such a structure instead of the other listed structures, nor does it enable one skilled in the art to form or construct such a specific layer structure in a manner distinguishable from the other layer structures.</p> <p>Claim 15 of an embodiment of the present invention describes a packaging film including enhanced optical and mechanical properties, the packaging film comprising a first layer of a sheet of elastomer, a second layer of polyolefin, and a third layer of a sheet of elastomer. The film includes enhanced optical and mechanical properties for a selected overall packaging film gauge thickness to allow the product to be seen more clearly through the packaging film.</p> <p>An embodiment of the present invention as described in claim 15 is also distinguishable from Niessner. For instance, in addition to the differences mentioned previously, the packaging film gauge thickness is distinguishable from the composite thickness in Niessner. Specifically, the packaging film gauge thickness of about 0.5 to about 3.0 mil in embodiments of the present invention (see, e.g., paragraph [0052]) is distinguishable from the composite thickness of 100 to 200 <math>\mu\text{m}</math> for extruded film in column 16, line 26 of Niessner.</p> <p>Also, an embodiment of the present invention as set forth in claim 27 includes a packaging film comprising a first layer of a sheet of elastomer, a second layer of polyolefin, and a third layer of a sheet of elastomer, whereby the packaging film includes a 45 percent gloss in a range of about 70% to about 110%. This likewise is not described in Niessner.</p> |
|--|--|--|

|           |                |   |
|-----------|----------------|---|
|           |                | <p>The embodiment of the present invention as described in claim 27 is distinguishable from Niessner. For instance, in addition to differences mentioned previously, Niessner does not show or describe that the film includes a 45 percent gloss in a range of about 70% to about 110%</p> <p>Moreover, other features in the dependant claims of the present application are distinguishable from Niessner. For instance, the present invention sets forth a measurement of shrink of about 0% to 60% in a transverse direction and about 60% to 90% in a machine direction. (claim 13). This is due to shrinking from a heat process, and in general, higher shrink percentages are preferred. This is distinguishable from the transverse shrinkage of less than 3% as taught in column 1, lines 56-57 of Niessner, which is a different and unrelated kind of shrink. The shrink in Niessner involves shrinkage that occurs during storage of rolls of films (see column 1, lines 53-58), particularly with PVC, which is undesirable as it leads to film blocking.</p> <p>In view of the foregoing distinguishing features, Applicant submits that the present invention is patentable over Niessner.</p> |
| 6,022,612 | Wilkie         | <p>Wilkie describes a packaging film with a matte finish including a polymeric surface layer made from a blend of polyolefin and thermoplastic rubber, particularly a blend of polyolefin and styrene-isoprene-styrene (SIS) block copolymer or styrene-butadiene-styrene (SBS) block copolymer, and a polymer core layer.</p> <p>In contrast, the present invention claims a packaging film with enhanced optical properties comprising a first outermost layer of elastomer, a second inner layer of polyolefin overlying and abuttingly contacting the first outermost layer of elastomer, and a third outermost layer of elastomer overlying and abuttingly contacting the second inner layer of the polyolefin.</p> <p>Thus, Wilkie does not describe one or more elements, i.e., a pair of outermost layers comprising solely elastomer used in a film with enhanced optical properties, of the presently claimed invention.</p>  |
| 6,060,136 | Patrick et al. | <p>Patrick describes a multilayer film having a first outer layer, an inner layer, and a second outer layer. The first outer layer comprises a homogeneous ethylene/alpha-olefin copolymer. The inner layer comprises a thermoplastic elastomer. The second outer layer comprises a second ethylene/alpha-olefin copolymer. The inner layer is between the first outer layer and the second outer layer, and is chemically different from the first outer layer and the second outer layer.</p> <p>In contrast, the packaging film of the present application includes a first outer layer of elastomer, a second inner layer of polyolefin and a third outer layer of elastomer.</p> <p>Because it does not show the use of polyolefin as the inner layer and elastomer as the outer layers, Patrick does not describe one or more elements of the presently claimed invention.</p>  |
| 6,248,850 | Arai           | <p>Arai describes a film containing at least 5 wt % of an aromatic vinyl compound-alpha-olefin random copolymer having an aromatic vinyl compound content of from 1 to less than 99.9% by molar fraction and having head-to-tail chain structures comprising at least two aromatic vinyl compound units.</p> <p>In contrast, the present application claims a packaging film comprising a first outermost layer of elastomer, a second inner layer of polyolefin overlying and abuttingly contacting the first outermost layer of elastomer, and a third outermost layer of elastomer overlying and abuttingly contacting the second inner layer of the polyolefin.</p> <p>Because Arai does not describe a multilayered film having the structure of the presently claimed invention, Arai does not describe one or more elements of the presently claimed invention.</p>  |



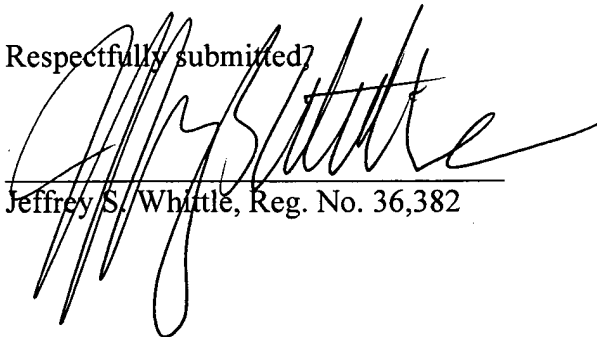
|           |                 |   |
|-----------|-----------------|---|
| 6,255,388 | Yamada et al    | <p>Yamada describes a shrink film produced by using a resin composition which is obtained by graft polymerization of copolymers of styrene and butadiene with styrene, methylmethacrylate, and butylacrylate.</p> <p>In contrast, the present invention comprises a multilayered packaging film having a first outer layer of elastomer, a second inner layer of polyolefin and a third outer layer of elastomer as claimed in the present invention.</p> <p>Because Yamada does not describe a multilayered film having the multilayered structure of the presently claimed invention, Yamada does not describe one or more elements of the presently claimed invention.</p>   |
| 6,270,866 | Okuda et al.    | <p>Okuda provides a low temperature heat shrinkable film comprising an intermediate layer having polystyrene and inner and outer layers having a styrene butadiene block copolymer.</p> <p>In contrast, the present invention claims a multilayered packaging film having a first outer layer of elastomer, a second inner layer of polyolefin and a third outer layer of elastomer.</p> <p>Because Okuda does not describe a multilayered film having the structure of the presently claimed invention, i.e., an intermediate polyolefin layer, Okuda does not describe one or more elements of the presently claimed invention.</p>   |
| 6,294,210 | Kuo             | <p>Kuo describes a multilayer film comprising: a first layer comprising a first homogeneous ethylene/alpha-olefin copolymer; a second layer comprising a polyolefin and a third layer comprising a second homogeneous ethylene/alpha-olefin copolymer. The second layer is between the first layer and the third layer.</p> <p>In contrast, the present invention claims a multilayered packaging film having a first outer layer of elastomer, a second inner layer of polyolefin and a third outer layer of elastomer.</p> <p>Because Kuo does not describe a multilayered film having the structure of the presently claimed invention, i.e., a pair of outermost elastomer layers that each abuttingly contact an intermediate polyolefin layer, Kuo does not describe one or more elements of the presently claimed invention.</p>   |
| 6,299,968 | Karaoglu et al. | <p>Karaoglu describes a multi-layer general purpose stretch film product comprising at least a core layer, adjacent inner layers and outer layers. The outer layers include a blend of a linear low density polyethylene, a metallocenes catalyzed linear low density polyethylene, and a flexible very low density polyethylene. The inner layers comprise a blend of linear low density polyethylene and a metallocenes catalyzed linear low density polyethylene.</p> <p>In contrast, the present invention claims a multilayered packaging film having a first outer layer of elastomer; a second inner layer of polyolefin; and a third outer layer of elastomer.</p> <p>Because Karaoglu does not describe a multilayered film having the structure of the presently claimed invention, i.e., a pair of outermost elastomer layers that each abuttingly contact an intermediate polyolefin layer, Karaoglu does not describe one or more elements of the presently claimed invention.</p> |

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| 6,333,061 | Vadhar         | <p>Vadhar describes a multilayer film having at least 4 layers. The first layer is an inside layer comprising ethylene/alpha-olefin copolymer and/or polystyrene. The second layer comprises ethylene/unsaturated ester copolymer, anhydride-modified ethylene/alpha-olefin copolymer, anhydride-modified ethylene/ester copolymer, acid-modified ethylene/alpha-olefin copolymer, and/or acid-modified ethylene/acid copolymer. The third layer comprises ethylene/alpha-olefin copolymer and/or polystyrene. The fourth layer comprises ethylene homopolymer, ethylene/alpha-olefin copolymer, ethylene/vinyl alcohol copolymer, polyvinylidene chloride, polyamide, polyester, polyalkylene carbonate, polyacrylonitrile, and/or ethylene/unsaturated ester copolymer.</p> <p>In contrast, the present application claims a packaging film comprising a first outermost layer of elastomer, a second inner layer of polyolefin overlying and abuttingly contacting the first outermost layer of elastomer, and a third outermost layer of elastomer overlying and abuttingly contacting the second inner layer of the polyolefin.</p> <p>Because Vadhar does not describe a multilayered film having the structure of the presently claimed invention, i.e., a pair of outermost elastomer layers that each abuttingly contact an intermediate polyolefin layer, Vadhar does not describe one or more elements of the presently claimed invention.</p> |
| 6,342,282 | Yoshii et al.  | <p>Yoshi describes a heat-shrinkable multi-layer film comprising at least a thermoplastic resin layer as the outermost layer (A), a gas barrier resin layer as a core layer (B) and a sealing resin layer as the innermost layer (C), and optionally an adhesive layer between the individual layers. The thermoplastic resin of the outermost layer is formed of, for example, ethylene alpha olefin copolymer.</p> <p>In contrast, the present invention claims a multilayered packaging film having a first outer layer of elastomer; a second inner layer of polyolefin; and a third outer layer of elastomer. Yoshii does not describe that the first outer layer of the film is formed of an elastomer. Thus, Yoshii does not describe one or more elements of the presently claimed invention.</p>   |
| 6,403,005 | Mientus et al. | <p>Mientus describes a multilayered film in which the layers are formed of a thermoplastic material.</p> <p>In contrast, the present invention claims a multilayered packaging film having a first outer layer of elastomer; a second inner layer of polyolefin; and a third outer layer of elastomer. Mientus does not describe that the first outer layer of the film is formed of an elastomer. Thus, Mientus does not describe one or more elements of the presently claimed invention.</p>   |
| 6,406,763 | Wolf et al.    | <p>Wolf describes a multilayer, heat-shrinkable food packaging film including at least three layers: 1) a first outer layer formed from a resin composition, 2) a second outer layer having one or more thermoplastic gloss materials of polyester, ethylene/alpha-olefin copolymer having a melt index of greater than 1 g/10 minutes and styrene/butadiene block copolymer, and 3) one or more inner layers between the first and second outer layers. At least one of the inner layers includes an ethylene/alpha-olefin copolymer.</p> <p>In contrast, the present invention claims a multilayered packaging film having a first outer layer of elastomer; a second inner layer of polyolefin; and a third outer layer of elastomer. Because Wolf does not describe a multilayered film having the structure of the presently claimed invention, i.e., a pair of outermost layers each containing an elastomer, Wolf does not describe one or more elements of the presently claimed invention.</p>   |
| 6,413,596 | Okuda et al.   | <p>Okuda provides a heat shrinkable film comprising inner and outer layers of styrene butadiene copolymer and an intermediate layer comprising polystyrene resin and block elastomer.</p> <p>In contrast, the present invention claims a multilayered packaging film having a first outer layer of elastomer, a second inner layer of polyolefin and a third outer layer of elastomer. Because Okuda does not describe a multilayered film having the structure of the presently claimed invention, i.e., an intermediate polyolefin layer, Okuda does not describe one or more elements of the presently claimed invention.</p>  |

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| 6,417,308 | Arai et al.    | Arai describes a film containing at least 5 wt % of an aromatic vinyl compound-alpha-olefin random copolymer.<br>In contrast, the present invention claims a multilayered packaging film having a first outer layer of elastomer, a second inner layer of polyolefin and a third outer layer of elastomer. Because Arai does not describe a multilayered film having the structure of the presently claimed invention, Arai does not describe one or more elements of the presently claimed invention.   |
| 6,479,138 | Childress      | Childress describes a film which includes a core layer including a linear random alpha-olefin/vinyl aromatic copolymer; and first and second outer layers including an olefinic polymer. First and second intermediate layers including an ethylene copolymer can be optionally included.<br>In contrast, the packaging film of the present application includes a first outermost layer of elastomer, a second inner layer of polyolefin and a third outermost layer of elastomer. Because Childress does not describe that the outermost layers of the film are elastomers, Childress does not describe one or more elements of the presently claimed invention. |
| 6,517,950 | Patrick et al. | Patrick describes a multilayer film which has a first outer layer comprising a homogeneous ethylene/alpha-olefin copolymer, a second inner layer comprising a thermoplastic elastomer and a third outer layer comprising a second ethylene/alpha-olefin copolymer.<br>In contrast, the packaging film of the present application includes a first outer layer of elastomer, a second inner layer of polyolefin and a third outer layer of elastomer. Because it does not show the use of polyolefin as the inner layer and elastomer as the outer layers, Patrick does not describe one or more elements of the presently claimed invention.                       |

Applicant is including herewith a check in the amount of \$130.00 for the petition fee set forth in 37 CFR § 1.17(h). If the check is missing or the amount insufficient, the Commissioner is authorized to charge Account No. 50-0259 (Order No. 025635.011.042) for the amount of the deficiency.

Respectfully submitted,



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